



Federal Aid in Sport Fish and Wildlife Restoration Programs Restrict the State's Use of Hunting and Fishing License Funds

State Hunting and Fishing License Dollars

Montana Fish, Wildlife & Parks receives over \$57 million dollars each year from the sale of hunting and fishing licenses. This amount represents 65 percent of the department's total annual budget of approximately \$87 million.

Although license money is state revenue, its use is strictly limited to administering the fish and wildlife agency. This unusual restriction results from state and federal laws passed as early as 1937. In order to receive certain federal money, Montana agreed to use its state hunting and fishing license money only for fisheries and wildlife management.

If the state uses its hunting or fishing license dollars for purpose other than fisheries or wildlife management, the U.S. Fish and Wildlife Service could determine that a "diversion" of state license monies has occurred. The penalty for diversion is severe: Federal Aid in Sport Fish and Wildlife Restoration funding could be withheld from Montana.

The restrictions on use of license dollars applies to: all hunting, fishing, and conservation license dollars; interest earnings from license revenues; federal grant reimbursements from the USFWS, lands acquired with license dollars; and other revenues listed in federal rules attached to this document. Citations of the applicable state laws restricting the use of license revenues are also provided later in this document.

Federal Aid Programs

Federal funding for fisheries and wildlife has been an important source of revenue for 50-60 years. Montana has received over \$328 million in Federal Aid funding--\$174 million for wildlife since 1939, \$153 million for fisheries since 1952, and \$10.2 million for species of greatest conservation need since 2002.

The department now receives over \$19 million each year in Federal Aid in Wildlife and Sport Fish Restoration, and State Wildlife Grant program funds combined. These are often referred to as the Pittman-Robertson (P-R), Wallop-Breaux (W-B, which amended Dingell-Johnson in 1984), and SWG (or "SWiG") programs. Federal Aid now supports approximately 20 percent of the department's budget.

Federal Aid funds are used for fisheries and wildlife management, research, and education programs. They are also used to acquire land and for construction projects such as hatcheries, fishing access sites, and motorboat access at water-based State Parks. At least 25 percent of the cost of each project must come from license or other non-federal funds.

Statutes and rules governing these programs, and restricting the state's use of its hunting and fishing license revenues as a condition for receiving the federal funds, are attached.

SOURCE - FWP, 9-13-10

State Statutes

Citations of the key applicable state laws that restrict the use of hunting and fishing license funds include:

1. 87-1-601 **Use of Fish and Game Money.** This statute was amended by the 1991 Legislature to include interest earnings as a form of license money.
2. 87-1-708 through 710 **Assent to Pittman-Robertson Act**
3. 87-1-701 through 703 **Assent to Dingell-Johnson Act**
4. 87-1-710 **Use of Hunters' License Fees for Department Purposes Only**

Federal Statutes and Rules

Citations of the key applicable federal laws and program rules and regulations governing the Federal Aid program, including how states may use hunting and fishing license revenue, include:

1. 16 U.S.C. 669-669b, 669c-669i **Federal Aid in Wildlife Restoration Act of 1937**

Section 1 provides that, "...the State...shall have assented to the provisions of this Act and shall have passed laws for the conservation of wildlife which shall include a prohibition against the diversion of license fees paid by hunters for any other purpose than the administration of said State fish and game department,..."

2. 16 U.S.C. 777-777k **Federal Aid in Sport Fish Restoration Act of 1950, as amended in 1984**

Section 1 (a) provides that, "...the State...shall have assented to the provisions of this Act and shall have passed laws for the conservation of fish, which shall include a prohibition against the diversion of license fees paid by fishermen for any other purpose than the administration of the State fish and game department,..."

3. 50 CFR Part 80 **U.S. Fish and Wildlife Service Rules Implementing the Federal Aid Acts**

Section 80.3 Assent legislation. This section reiterates the language included above in the Federal Aid in Sport Fish and Wildlife Restoration Acts.

Section 80.4 Diversion of license fees. This section presents the federal rules that: discuss diversion; list the revenues that are considered to be license funds and subject to the requirement; and set forth penalties if states divert license monies.

This section of the Federal Aid Rules became effective on May 17, 1989, and provided time for states like Montana that needed to enact legislation in order to comply with the new requirement that considers interest earnings on license revenues as a form of license revenue, and therefore subject to the requirement that it be used only to administer the fish and wildlife agency.

As noted above under the citations of state statutes, Section 87-1-601, MCA, was amended in 1991 so that effective March 1, 1992, the state would remain in compliance with these revised federal regulations.

Section 80.4 Diversion of license fees.

"Revenues from license fees paid by hunters and fishermen shall not be diverted to purposes other than administration of the State fish and wildlife agency.

(a) Revenues from license fees paid by hunters and fishermen are any revenues the State receives from the sale of licenses issued by the State conveying to a person the privilege to pursue or take wildlife or fish. For the purpose of this rule, revenue with respect to license sales by vendors, is considered to be the net income to the State after deducting reasonable vendor fees or similar amounts retained by sales agents. License revenues include income from:

(1) General or special licenses, permits, stamps, tags, access and recreation fees or other charges imposed by the State to hunt or fish for sport or recreation.

(2) Sale, lease, rental or other granting of rights of real or personal property acquired or produced with license revenues. Real property includes, but is not limited to lands, building, minerals, energy resources, timber, grazing, and animal products. Personal property includes but is not limited to, equipment, vehicles, machine, tools, and annual crops.

(3) Interest, dividends, or other income earned on license revenues.

(4) Federal Aid project reimbursements to the States to the extent that license revenues originally funded the project for which the reimbursement is being made.

(b) For purposes of this rule, administration of the State fish and wildlife agency include only those functions required to manage the

fish and wildlife-oriented resources of the State for which the agency has authority under State law.

(c) A diversion of license fee revenues occurs when any portion of license revenues is used for any purpose other than the administration of the State fish and wildlife agency.

(d) If a diversion of license revenues occurs, the State becomes ineligible to participate under the pertinent Act from the date the diversion is declared by the Director until:

(1) Adequate legislative prohibitions are in place to prevent diversion of license revenue, and

(2) All license revenues or assets acquired with license revenues are restored, or an amount equal to license revenue diverted or current market value of assets diverted (whichever is greater) is returned and properly available for use for the administration of the State fish and wildlife agency.

(e) Federal funds obligated for projects approved prior to the date a diversion is declared remain available for expenditure on such projects without regard to the intervening period of the State's ineligibility."

[Note: Subsection (4)(a) is not included in this document because the rule itself does not include a subsection (4)(a).]